

STATE OF MICHIGAN
COURT OF APPEALS

RONALD STUART MONCZUNSKI,

Plaintiff-Appellee,

v

ASHLEY LYNN SHELTON,

Defendant,

and

MATTHEW BOWLING,

Intervenor-Appellant.

UNPUBLISHED
February 25, 2014

No. 316619
Oceana Circuit Court
LC No. 12-009421-DP

Before: SAWYER, P.J., and BORRELLO and BECKERING, JJ.

Sawyer, P.J. (*dissenting*).

I respectfully dissent.

For the reasons expressed in my dissenting opinion in *Helton v Beaman*, ___ Mich App ___; ___ NW2d ___ (No. 314857, rel'd 2/4/14), I believe that, in revocation of the acknowledgment of paternity cases, this Court in *In re Moiles*, 303 Mich App 59; 840 NW2d 790 (2013), correctly determined that it was erroneous for the trial court to consider the best interest of the child. Rather, once it is established by clear and convincing evidence that the acknowledged father is not the biological father, as is the case here, the trial court must enter an order revoking the erroneous acknowledgment of paternity. That is, once the trial court found that there was a mistake of fact that Monczunski was the father and that Bowling was, in fact, the child's biological father, it was obligated to revoke Monczunski's acknowledgment of paternity and enter an order of filiation finding Bowling to be the father. There simply is no discretion for the trial court to exercise.

I would reverse.

/s/ David H. Sawyer